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HUMAN RIGHTS COMMITTEE

Forty-third session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 1119th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 7 November 1991, at 3 p.m.

Chairman: Mr. AGUILAR URBINA

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* The summary record of the second part (closed) of the meeting appears as document CCPR/C/SR.1119/Add.1.

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The meeting was called to order at 3.25 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Third periodic report of Ecuador (CCPR/C/58/Add.9) (continued)

1. The CHAIRMAN invited members of the Committee to make their concluding observations following the consideration of the periodic report of Ecuador.

2. Mr. MAVROMMATIS welcomed the dialogue that had taken place with the delegation of Ecuador, a country which had not only made considerable progress in ensuring respect for human rights but had also manifested the political will to continue its efforts. However, a number of issues still caused concern and the Government of Ecuador needed to reflect on the conditions for declaring a state of emergency and on means of eliminating cases of ill-treatment once and for all and elucidating all the disappearances which had occurred in the past. He also stressed the need to do away with the various discriminatory provisions of the Elections Act such as those whereby suffrage was compulsory for those who could read and write but optional for illiterates and persons aged over 65. It would be desirable to decriminalize infringements of the Elections Act, but should the authorities of Ecuador decide not to do so, then all electors ought to be liable to penalties and not only some of them.

3. He wished the Ecuadorian Government, through its delegation, every success in its efforts to ensure respect for human rights and fundamental freedoms.

4. Mr. HERNDL thanked the delegation of Ecuador for its frank replies to the many questions put by the Committee. Ecuador was dedicated to the cause of peace and it was quite clear that its Government was very concerned to improve the human rights situation. Praiseworthy measures had been taken, such as the creation of the General Directorate for Human Rights in the Ministry of Foreign Affairs, the human rights training dispensed to members of the police and the armed forces and, in general, Ecuador's accession to a large number of regional and international human rights instruments. However, the de jure and de facto situation did not always conform precisely to the provisions of the Covenant and it was to be hoped that more forceful measures would be taken on behalf of the indigenous populations, that trade union rights would be more effectively guaranteed and that every effort would be made to prevent torture and punish those responsible.

5. While he endorsed the criticisms of the Elections Act and considered that infringements of that Act should be decriminalized, he wished to assure the Ecuadorian delegation that the Committee's sole concern was to help States to improve their human rights situation.

6. Mr. FODOR stressed the fact that the dialogue with the delegation of Ecuador had been fruitful. The delegation had given comprehensive and frank replies and the report itself made no secret of the human rights violations committed, in particular, by some branches of the police. Even if such practices were only sporadic, they must cease; the Government's manifest

awareness of the problem was reassuring, as was its desire to heed the Committee's observations. In the future the problem of compensation for torture victims, for which the law currently made no provision, needed to be resolved.

7. He was prepared to believe that in practice the independence of the judiciary was respected, but in his opinion the situation as it stood was not satisfactory. In so far as members of the Supreme Court, who themselves elected the other judges, were elected by the National Congress, which by definition was composed of representatives of the majority parties, they were indirectly attached to the political parties, a situation which was not calculated to maintain the independence and impartiality of justice. There was therefore a need to review the system.

8. He also recommended that national origin should be added to the possible grounds for discrimination set out in article 19, paragraph 5, of the Constitution and that article 9 and article 11, paragraph 2, of the Constitution should also be amended. If the prohibition on women signing contracts to work abroad was an absolute one or covered the majority of jobs, it needed to be reconsidered. Lastly, the right to vote should not be a duty; there were other means of ensuring that all electors took part in the vote.

9. Lastly, he thanked the delegation of Ecuador for its frankness and cooperation.

10. Mr. WENNERGREN welcomed the dialogue with the Ecuadorian delegation, which had been able to answer practically all the Committee's questions. On comparing the third periodic report with the second, he had been struck by the fact that, while the Constitution had not changed, practice had evolved considerably and that within the context of the old Constitution the Ecuadorian Government had been able to restore a large number of guarantees, which augured well for the future. For example, the judicial police reform was an essential step which would help to avoid regrettable abuses.

11. He continued to believe that the conditions for declaring a state of emergency were not entirely compatible with the Covenant, particularly as no legislation guaranteed the sacrosanct nature of certain rights. The Ecuadorian Government should envisage an express guarantee that certain fundamental rights were not subject to derogation.

12. He was also concerned about compulsory labour in the context of military service; it was undoubtedly useful for the promotion of forestry and agriculture, but remained incompatible with article 8 of the Covenant. Lastly, the right to vote should not be an obligation, although the issue was a controversial one. For his part, he felt that obliging individuals to vote was incompatible with freedom of thought and conscience.

13. He wished the Ecuadorian Government, through its delegation, every success in its efforts to restore guarantees and human rights.

14. Ms. CHANET thanked the delegation of Ecuador for presenting a very interesting report which well reflected the general situation that the country had been experiencing for more than two years. A number of positive features

deserved to be mentioned, especially, the political will to eliminate the last vestiges of human rights violations. The abolition of the Criminal Investigation Service (SIC) and the restructuring of the police would also certainly lead to an improvement in the situation. More effective control of rank-and-file policemen, the modification of recruitment conditions and improved training for the police would also help to change things. Similarly, the reform of criminal law and a substantial increase in the justice and prisons budget could only be moves in the right direction.

15. Some concerns still remained, however. For example, it was a fact that the State still did not have complete control throughout its territory of all persons who might take advantage of their authority to commit abuses, even to the extent of actual disappearances as in the case of the Restrepo brothers. The State's reaction in that affair was to be welcomed.

16. With regard to the rights of individuals, while historical reasons could explain the adoption of provisions governing the right to vote, they could not justify their maintenance. It was difficult to understand why a distinction had been established in the right to vote between illiterates and persons who could read and write and why members of the police and the armed forces were denied that right. The argument that granting the right to vote to the military was liable to increase the risk of coups d'état was not convincing; on the contrary, she thought that depriving military personnel of the right to vote was likely to encourage them to become marginalized from civic life and not conduct themselves like citizens.

17. She would suggest that, if an exceptional danger threatened the country's existence and obliged the Government of Ecuador to proclaim a state of emergency, it should make the declaration to the Secretary-General provided for in article 4 of the Covenant. She would also suggest that it should make legislative provision for compensation to be granted to victims of arbitrary arrest or detention. The positive and open reaction of the delegation of Ecuador in that regard gave reason to believe that rapid action would be taken on the Committee's recommendation on that subject.

18. Mr. ANDO welcomed the political will of the Government of Ecuador to overcome the obstacles to the implementation of the Covenant, as attested by the answers given by the delegation of Ecuador in a highly cooperative spirit. However, like other members of the Committee, he considered it necessary to adopt an act to grant compensation to victims of torture, to modify the system for the election of judges by the National Congress so as to strengthen the independence of the judiciary and to amend the Elections Act, which was unfair.

19. In his opinion, particular efforts should be made to do away with social and economic inequalities, since the main cause of violence in Ecuador seemed to be its lopsided social structure. A large part of the national wealth was owned by a handful of citizens and it was important to take steps to ensure a better distribution of resources.

20. He was sure that the delegation of Ecuador would inform its Government of the Committee's concerns, stressing the purpose of the dialogue, which was to assist States in promoting human rights.

21. Mr. SADI thanked the delegation of Ecuador for the report which it had presented to the Committee and for its replies to the questions put. He hoped that the powers of the Court of Constitutional Guarantees would be enhanced and that its decisions would become genuinely enforceable. It would also be necessary to reinforce the mandate of the Ad Hoc Commission on Human Rights and have it submit more specific recommendations. Lastly, he hoped that the Ecuadorian authorities would adopt a law on the ecosystem of the Amazon region to serve as a model for all the other countries of the region.

22. The CHAIRMAN thanked the delegation of Ecuador for submitting a candid report which, without covering up the cases of torture, disappearances and ill-treatment which still existed in the country, showed that the Government of Ecuador was concerned to make progress in promoting human rights. He was particularly happy to have the opportunity to chair the Committee at a time when it was receiving the delegation of a country with which he had always maintained cordial relations.

23. The concerns expressed by members of the Committee with regard to the human rights situation in Ecuador had in many cases been related to emergency situations in which derogations from certain rights could occur, contrary to the provisions of the Covenant. It had also appeared to members of the Committee that a state of emergency had sometimes been declared in Ecuador when the nation was not strictly speaking in danger. The members of the Committee had also deplored the continuing commission of abuses attributable to the police. It was to be hoped that the abolition of the Criminal Investigation Service (SIC) and its replacement by a judicial police force would improve that situation. The members of the Committee had also expressed concern about the independence of the judiciary in Ecuador and the arrangements for appointing members of the Supreme Court, which they did not find appropriate.

24. It also seemed that in Ecuador there was some degree of discrimination based on nationality, as well as discrimination in the electoral system with regard to illiterates and members of the police and the armed forces. The delegation of Ecuador had stated in that regard that if it had been considered desirable to exclude the latter categories from the electoral process it was because of the large number of coups d'état with which those two bodies had been associated in Ecuador in the past. However, at a seminar on demilitarization and democratization in Latin America which he had attended just prior to the current session, it had been agreed that the reason that there had been so many coups d'état in Latin America was that the armed forces had been too isolated from civil and political life. As Ms. Chanet had said, integrating members of the armed forces in the civil and political life of a country encouraged respect for human rights in daily life.

25. In conclusion, he hoped that the various recommendations made by the Committee during its consideration of the report would be conveyed to the Ecuadorian authorities, whose fourth periodic report was due on 4 November 1993.

26. Mr. ORTIZ CRESPO (Ecuador) said that the extremely fruitful dialogue which was drawing to a close had shown how interested the Committee was in the promotion of human rights in his country. The Committee had recognized

the political will of the Government of Ecuador to ensure greater respect for human rights, as well as the country's progress within a democratic framework. It was a fact that Ecuador not only faced problems of very long standing but also an extremely difficult economic situation. No progress in solving those problems would have any meaning, however, if the rights and dignity of the individual were not respected. He welcomed the fact that the Committee was encouraging the Ecuadorian authorities to promote a human rights culture and was sure that his country's next periodic report would reflect further improvements.

The public meeting rose at 4.15 p.m.